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DATE: December 16, 2003 FILE #: 108430.019A

RECIPIENT(S)	PHONE	FAX
Examiner Gergory Webb - USPTO		703 872-9306

MESSAGE: FOR SERIAL NO. 10/053,364 METHOD AND SYSTEM FOR CHEMICAL INJECTION IN SILICON WAFER PROCESSING

Attached is Response to Restriction Requirement dated 11/17/03 on 3 pages plus transmittal sheet on one page and this fax cover sheet for a total of 5 pages

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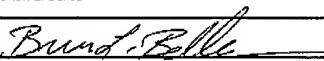
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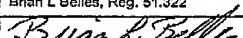
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<b>TRANSMITTAL FORM</b> (to be used for all correspondence after initial filing)	Application Number	10/053,364	
	Filing Date	Jan. 18, 2002	
	First Named Inventor	Chang Kuo	
	Art Unit	1751	
	Examiner Name	Gergory E. Webb	
Total Number of Pages in This Submission	4	Attorney Docket Number	108430.019A

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**PATENT**

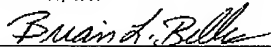
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Art Unit : 1751 Docket: 108430.019A  
Examiner : Gregory E. Webb  
Serial No. : 10/053,364  
Filed : January 18, 2002  
Inventor : Chang Kuo et al.  
Title : METHOD AND SYSTEM FOR CHEMICAL INJECTION IN SILICON  
WAFER PROCESSING

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Brian L. Belles, Reg. No. 51,322

**RESPONSE TO RESTRICTION REQUIREMENT**

In response to the Office communication of November 17, 2003, Applicants elect with  
traverse Invention I, which is drawn to the apparatus and consists of Claims 1-9.

Applicants traverse the restriction requirement because the inventions as grouped are not independent and distinct. According to the Manual of Patent Examining Procedure ("MPEP"), section 802.01, the term "independent" means that there is no disclosed relationship between the two or more subjects disclosed. Stated in simplest terms, "independent" means "not dependent." See MPEP § 802.01 ¶ 3. In the present case there is a disclosed relationship between Inventions I and II. The claims of Invention II are directed toward a process while the claims of Invention I are directed toward a system for carrying out the process of Invention II. It is a well established principle that a group of claims directed toward a product and a group of claims directed toward a system for carrying out that process are dependent inventions. In fact, this dependency is explicitly recognized in the MPEP. See MPEP § 802.01 ¶ 6. Thus, Inventions I and II are not independent.

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However, according to MPEP § 802.01, dependent inventions may nonetheless be properly divided if they are in fact "distinct." According to MPEP § 806.05(e), "a process and apparatus for its practice can be shown to be distinct inventions, if either or both of the following can be shown: (1) that the process as claimed can be practiced by another *materially* different apparatus or by hand, or (2) that the apparatus as claimed can be used to practice another materially different process." See MPEP § 806.05(e) (emphasis added). "The burden is on the examiner to provide reasonable examples that recite material differences." MPEP § 806.05(e), ¶ 8.17.

In accordance with this burden, the Office Action first states that "the process claimed can be practiced with a device that does not require mixing." This statement is incorrect and ignores the express language of process claim 10. The process as claimed specifically requires the step of "mixing the first chemical with the mixture of the hot water and the cold DI water...." See claim 10. In order for an apparatus to perform this mixing step, it is imperative that the apparatus contain some type of means to mix the first chemical with the hot and cold DI water. To state that that the process, as claimed, can be performed by a simple DI water system with no chemical mixing blatantly ignores specific limitations present in the claimed process. Such practice is improper. See MPEP § 806.01 (stating that it "is the claimed subject matter that is considered and such claimed subject matter must be compared in order to determine the question of distinctness or independence").

In further support of its burden, the Office Action additionally states that "the applicant's apparatus could be used for methods beyond cleaning substrates." This statement is incorrect and ignores the express language of process claim 10. The system as claimed specifically requires a "process tank for cleaning, rinsing, and/or drying silicon wafers." See claim 1. To state that the system can be used to "for methods beyond cleaning semiconductors," such as being used as a "consumer dishwasher and can be used in methods of cleaning silverware or other home items," is blatantly ignores the specific limitations present in the claimed system. Such practice is improper. See MPEP § 806.01 (stating that it "is the claimed subject matter that is considered and such claimed subject matter must be compared in order to determine the question of distinctness or independence"). Moreover, the burden is on the examiner to provide reasonable

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examples that recite material differences. See MPEP § 806.05(e). The example given by the Examiner that the system can be used as a normal dishwasher is clearly unreasonable. The system claimed is an expensive and complicated system, costing as much as hundreds of thousands of dollars. A reasonable human being is not going to buy the claimed system and use it to wash dishes. Under the examiner's rationale, every system in the world can be used for a different process, such as the process of filling a hole in the ground or providing a ladder upon which someone can stand. Such an interpretation of the MPEP is impermissible.

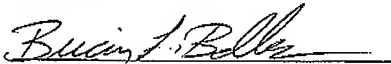
Thus, the distinctions recognized in the Office Action are improper and do not show that the claimed inventions are distinct. Thus, the burden is now on the Examiner to document another materially different process or apparatus or withdraw the restriction requirement. See MPEP § 806.05(e), ¶ 8.17.

Finally, according to MPEP § 803, "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." See MPEP § 803 (emphasis added). In the present application, Inventions I and II are very closely related. Any search performed for the apparatus will uncover the relevant prior art for the process. In fact, it is likely that the same prior art will be cited against both the process and apparatus claims if a rejection for the claims of the present application issues.

For these reasons, following the instructions of the MPEP, the restriction requirement is improper and should be withdrawn.

Respectfully Submitted,

Date: 12/16/03

  
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